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Position Statement

HBs 4641-4644 & 4688 – Drain Code Amendments

The Sierra Club is OPPOSED to HBs 4641-4644 & 4688.

House Bills 4641-4644 increase the authority of elected county drain commissioners in a number of ways. HB 4688 doubles the amount of money drain commissioners can charge landowners for drain maintenance.

Issue Background

The Michigan Drain Code has significant ramifications in the areas of environment, taxation and individual property rights. This law originated in the 1800s, when agricultural drainage projects were undertaken using pick axes and shovels - and before the concept of "the environment" even existed. Over the decades, much of Michigan's wetlands were drained, enabling agriculture, businesses and communities to exist on land that was previously under water.

The Drain Code has been amended many times, but still lacks any meaningful mechanisms for public participation or reasonable legal recourse for citizens when disputes arise. The law fails to require Drain Commissioners to consider alternatives to massive and expensive drain projects. Appointed "Boards of Determinations," hand-picked by the Drain Commissioner to make decisions on drainage projects, are not required to consider the costs and benefits of any project, nor the impact on taxpayers, landowners or the environment. In recent years, the Drain Code has become a tool used to drain land at public expense for private developers.

Currently, 3,000 miles of Michigan streams are listed on the state's list of impaired waterways due to "habitat modification" – in other words, the streams were damaged by drainage projects. The Drain Code contains no mandate to repair these streams.

Many believe that a major rewrite of the Drain Code is long overdue. Phrases like, "Taxation without representation," "All pay and no say," and "Drainage at any cost," have been used to describe the impact of the Drain Code.

Sierra Club Perspective

The Sierra Club opposes legislation that strengthens authorities under the existing Drain Code.

The Sierra Club recognizes that maintaining existing drainage in Michigan for residential, business and agricultural purposes is necessary. However, environmental protection and the rights of taxpayers and property owners must be taken into consideration.

The Michigan Legislature should convene a work group to begin the process of rewriting the Drain Code in a way that protects the environment and provides for public involvement. In lieu of a complete re-write, these bills should be withdrawn from immediate consideration. Any future amendments must begin to build public accountability and environmental responsibility into the Code.

*Please contact the Sierra Club Mackinac Chapter office at (517) 484-2372 for more information.
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